

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE**

J.W.N., by and through M.N., and A.N.)
Plaintiffs,) CASE NO.
) 3:22-cv-00457
) District Judge Atchley
v.) Magistrate Judge Poplin
)
KNOX COUNTY BOARD OF EDUCATION)
Defendant.)

**PLAINTIFFS MOTION TO STAY PROCEEDINGS
PENDING RESOLUTION OF MOTION TO REMAND**

COME NOW the Plaintiffs, and hereby request the Court enter an order staying further proceedings until the Court issues a ruling on the Plaintiffs' Motion to Remand. [DOC 8] For good grounds therefore, the Plaintiffs state:

1. A week prior to filing the instant motion the Plaintiffs sought from the Defendant a position on whether they agreed or not to granting this motion. The Defendant will not respond and hence its position is unknown.
2. Currently pending before the Court is the Plaintiffs' Motion to Remand. The motion, the Defendant's response [DOC 14] and the Plaintiffs' reply [DOC 17] were thoroughly briefed and await a ruling.
3. Prior to filing its response to the Motion to Remand, the Defendant

filed a motion for judgment on the administrative record. [DOC 13]

4. Requiring a response at this time to that motion would not be provident for the following reasons:

(a) Given the reasons set forth in the briefing on the pending remand motion, not the least of which is the Defendant's tacit concession that they removed the case to the wrong district court intentionally, denial of the motion to remand is unlikely. If the preceding is correct, then requiring a response now is completely unnecessary.

(b) Regardless of the eventual forum, the Plaintiffs have statutory rights, including the right to present the Court with additional evidence¹ prior to any final order. Again, if the preceding is correct, then filing a response on a record not fully developed is of little use to the Court.

WHERFORE for the foregoing reasons the plaintiffs request the Court stay further proceedings pending the resolution of the Plaintiffs' Motion to Remand.

¹ In any action brought under this paragraph, the court—(i) shall receive the records of the administrative proceedings;(ii) shall hear additional evidence at the request of a party; and (iii) basing its decision on the preponderance of the evidence, shall grant such relief as the court determines is appropriate. 20 USC 1415(i)(2)(B)

/s/ Michael F. Braun

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CERTIFICATE OF SERVICE

This is to certify that I have this day served all pleadings relevant thereto to the Knox County Board of Education by emailing its attorneys on February 10, 2023:

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